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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

PEREZ GUTIERREZ, RAFAEL

ART UNIT PAPER NUMBER

2686

DATE MAILED: 10/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/995,432

Applicant(s)

Wolochow et al.

Examiner

Rafael Perez-Gutierrez

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 January 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 January 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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DETAILED ACTION

1. This Action is in response to Applicant's amendment filed on January 21, 2005. **Claims 1-25** are still pending in the present application. **This Action is made FINAL.**

Drawings

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference numbers not mentioned in the description: On **figure 3**, reference number **327** is not mentioned in the description.
3. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office Action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended". If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the Examiner, the Applicant will be notified

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and informed of any required corrective action in the next Office Action. If a response to the present Office Action fails to include proper drawing corrections, corrected drawings or arguments therefor, the response can be held **NON-RESPONSIVE** and/or the application could be **ABANDONED** since the objections/corrections to the drawings are no longer held in abeyance.

Specification

4. The disclosure is objected to because of the following informalities:
 - a) On **page 4 line 29**, replace “166” with --116-- after “provider”; and
 - b) On **line 6 of the abstract**, replace “providersto” with --providers to--.Appropriate correction is required.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office Action:

A person shall be entitled to a patent unless -- (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-11, 14-16, and 18-21 are rejected under 35 U.S.C. 102(e) as being anticipated

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by Kinnunen et al. (U.S. P.G.-Pub. No. 2001/0018349).

Regarding **claim 1**, Kinnunen et al. disclose an automated service handoff system (An automated service integrated into a cellular communication system which track mobile telephones by a cell identity regarding the current cell in which they are located, therefore such cellular communication system incorporate “handoff” upholding communications between the cellular communication system and the mobile telephones; *Page 1, Paragraph 3; Fig. 1*), comprising: a service registry including a list of available services (Wherein the communication network comprises a service configuration associated by a service repository which contains the available or actual services; *Page 6, Paragraph 108 Page 7, Paragraph 120; Fig. 2, items 254 and 256*) ; a mobile device associated with a current location (A mobile terminal associated with a particular location; *Page 1, Paragraph 7*), wherein the mobile device includes a list of preferred services (The mobile terminal comprising an LDS client for identifying user preferred services; *Page 4, Paragraph 76; Page 5, Paragraphs 94, 100, and 101*), wherein the mobile device is capable of sending a query including a service location associated with the current location (Receiving service queries from the mobile terminals subsequently obtaining the location information associated with the mobile terminal; *Page 6, Paragraphs 110, 114-116*) and at least one selected member of the list of preferred services to the service registry (Service being selected by the user of the mobile terminal from user pre-set service preferences; *Page 5, Paragraphs 100-102*), and wherein the mobile device is capable of receiving a response to the query from the service registry including at least one selected member of the list of available services (Wherein after receiving a query from the mobile terminal containing a user profile

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further containing location and service preferences associated with said mobile terminal, the network service configuration identifies those services associated with the user profile and determine which actual or available services matched the user profile; *Page 6, Paragraph 109; Page 7, Paragraphs 124-125*); and a location determination module capable of determining the current location of the mobile device and capable of being communicatively coupled with the mobile device (A location determination module such as an electronic system or location information sources comprising location techniques such as GPS, and Time of Arrival that can be provided from the mobile terminal, therefore said module being communicatively coupled to the mobile terminal; *Page 1, Paragraph 6; Page 2, Paragraphs 23 and 37; Page 5, Paragraph 95*).

Regarding **claim 2**, and as applied to claim 1, Kinnunen et al. disclose the aforementioned automated service handoff system, wherein the service registry is an extensible markup language-based registry (Wherein the network location server stores location information using extensible markup language (XML); *Page 6, Paragraph 110*).

Regarding **claim 3**, and as applied to claim 1, Kinnunen et al. disclose the aforementioned automated service handoff system, wherein the list of available services includes a service provider (Service Providers that register actual services with the network; *Page 6, Paragraph 108*), a service type (A service characteristic such as service type; *Page 6, Paragraph 109*), and a service location for the at least one selected member of the list of available services (Wherein the actual or available service is provided with location information; *Page 6, Paragraph 110*).

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Regarding **claim 4**, and as applied to claim 1, Kinnunen et al. disclose the aforementioned automated service handoff system, wherein the mobile device is capable of being bound to the at least one selected member of the list of available services (Finding a match between the service preferences associated with the user profile and the actual or available services in the proximity area provided by the network; *Page 6, Paragraph 109; Page 7, Paragraphs 124-127*).

Regarding **claim 5**, and as applied to claim 1, Kinnunen et al. discloses the aforementioned automated service handoff system, wherein the location determination entity is included in the mobile device (A location determination entity such as an electronic system or location information sources comprising location techniques that can be provided from the mobile terminal, therefore said module included in the mobile terminal; *Page 1, Paragraph 6; Page 2, Paragraphs 23 and 37; Page 5, Paragraph 95*).

Regarding **claim 6**, and as applied to claim 5, Kinnunen et al. disclose the aforementioned automated service handoff system, wherein the location determination entity includes a global positioning system receiver (A GPS receiver incorporated into a mobile terminal such as mobile telephone; *Page 1, Paragraph 6*).

Regarding **claim 7**, and as applied to claim 1, Kinnunen disclose the aforementioned automated service handoff system, wherein the mobile device includes a memory in which a plurality of location signatures are stored (The LDS client module installed into the mobile terminal recording sources of location information and assigning an identifier to those sources of location information; *Page 5, Paragraphs 99 and 101*).

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Regarding **claim 8**, and as applied to claim 1, Kinnunen disclose the aforementioned automated service handoff system, further comprising: a computer capable of being communicatively coupled with the mobile device and transmitting the list of preferred services to the mobile device (Wherein the mobile terminal service view agent provides the mobile terminal with capability to browse services on the network; *Page 5, Paragraph 101*).

Regarding **claim 9**, and as applied to claim 1, Kinnunen et al. disclose the aforementioned automated service handoff system, further comprising: at least one computer capable of publishing the at least one selected member of the list of available services to the service registry (*Page 5, Paragraph 101*).

Regarding **claim 10**, Kinnunen et al. disclose a mobile device (A mobile terminal; *Page 1, Paragraph 10*), comprising: a processor module (An LDS client pre-installed in the mobile terminal for determination and selectivity of location dependent services; *Page 5, Paragraph 94*); a local memory communicatively coupled to the processor module and capable of storing a list of preferred services (LDS client comprising a user profile agent for recording characteristics relevant to the provision of services; *Page 5, Paragraph 100*), a current location of the mobile device (A mobile terminal associated with a particular location; *Page 1, Paragraph 7; Page 1, Paragraph 6; Page 2, Paragraphs 23 and 37; Page 5, Paragraph 95*), and a previous location of the mobile device (Means for updating location information; *Page 7, Paragraphs 126-128*); and a communications medium interface communicatively coupled to the processor module and capable of being communicatively coupled to a service registry for sending a query including a service location associated with the current location of the mobile device (Receiving service

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queries from the mobile terminals subsequently obtaining the location information associated with the mobile terminal; *Page 6, Paragraphs 110, 114-116*) and at least one selected member of the list of preferred services to the service registry (Service being selected by the user of the mobile terminal from user pre-set service preferences; *Page 5, Paragraphs 100-102*).

Regarding **claim 11**, and as applied to claim 10, Kinnunen et al. disclose the aforementioned mobile device, further comprising: a location determination module capable of determining the current location of the mobile device (A location determination module such as an electronic system or location information sources for determining the current location of the mobile terminal; *Page 1, Paragraph 6; Page 2, Paragraphs 23 and 37; Page 5, Paragraph 95*).

Regarding **claim 14**, Kinnunen et al. disclose a method of automating service handoff operations (An automated service integrated into a cellular communication system which track mobile telephones by a cell identity regarding the current cell in which they are located, therefore such cellular communication system incorporate “handoff” upholding communications between the cellular communication system and the mobile telephones; *Page 1, Paragraph 3; Fig. 1*), comprising: determining a current location of a mobile device (A location determination module such as an electronic system or location information sources comprising location techniques such as GPS, and Time of Arrival for determining a current location of a mobile terminal; *Page 1, Paragraph 6; Page 2, Paragraphs 23 and 37; Page 5, Paragraph 95*); sending a first query including a service location associated with the current location and at least one selected member of a list of preferred services associated with the mobile device to a service registry (Receiving service queries from the mobile terminals subsequently obtaining the location information

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associated with the mobile terminal; *Page 6, Paragraphs 110, 114-116*); receiving a response to the query from the service registry including at least one selected member of a list of available services maintained by the service registry (Wherein after receiving a query from the mobile terminal containing a user profile further containing location and service preferences associated with said mobile terminal, the network service configuration identifies those services associated with the user profile and determine which actual or available services matched the user profile; *Page 6, Paragraph 109; Page 7, Paragraphs 124-125*); and binding the at least one selected member of the list of available services maintained by the service registry to the mobile device (Finding a match between the service preferences associated with the user profile and the actual or available services in the proximity area provided by the network; *Page 6, Paragraph 109; Page 7, Paragraphs 124-127*).

Regarding **claim 15**, and as applied to claim 14, Kinnunen et al. disclose the aforementioned method, further including: determining that the mobile device has moved to a new current location (The mobile terminal sends location information concerning its new location to the location server; *Page 7, Paragraph 128*); and sending a second query including a service location associated with the new current location (Automatic request for new available service as the mobile terminal moves into another service deployment area; *Page 7, Paragraphs 126, 128 and 131*) and the at least one selected member of the list of preferred services associated with the mobile device to the service registry (Remote update provided wherein the mobile terminal service view agent updates its view so that the user of the mobile terminal can see the current range of available services; *Page 7, Paragraphs 128 and 131*).

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Regarding **claim 16**, and as applied to claim 15, Kinnunen et al. disclose the aforementioned method, wherein determining that the mobile device has moved to a new current location further includes: storing the current location as a previous location (A location determination module such as an electronic system or location information sources comprising location techniques such as GPS, and Time of Arrival for determining a current location of a mobile terminal; *Page 1, Paragraph 6; Page 2, Paragraphs 23 and 37; Page 5, Paragraph 95*); determining the new current location of the mobile device (The mobile terminal sends location information concerning its new location to the location server; *Page 7, Paragraph 128*); and determining that the new current location is not the same as the previous location (Wherein the “service configurator” checks the new current location against the previously stored services and identifies those which are newly available; *Page 7, Paragraphs 126-131*).

Regarding **claim 18**, and as applied to claim 14, Kinnunen et al. disclose the aforementioned method, further including: storing a plurality of location signatures in a memory of the mobile device (The LDS client module installed into the mobile terminal recording sources of location information and assigning an identifier to those sources of location information; *Page 5, Paragraphs 99 and 101*).

Regarding **claim 19**, and as applied to claim 18, Kinnunen et al. disclose the aforementioned method, further including: determining that the mobile device has moved to a new current location (Wherein the “service configurator” checks the new current location against the previously stored services and identifies those which are newly available; *Page 7, Paragraphs 126-131*); and recalling a selected one of the plurality of location signatures

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associated with the new current location (Storing network service registrations associated with frequent polling retrieved when moving to a new location; *Page 8, Paragraph 143, Page 9, Paragraph 148*).

Regarding **claim 20**, and as applied to claim 15, Kinnunen disclose the aforementioned method, further including: informing a user of the mobile device that the at least one selected member of the list of preferred services associated with the mobile device is not available for use by the mobile device (When the mobile terminals moves out its current service deployment area the service repository determines that certain services are no longer available; *Page 7, Paragraph 131, Page 8, Paragraphs 141-142*).

Regarding **claim 21**, and as applied to claim 20, Kinnunen et al. disclose the aforementioned method, further including: binding an alternative available service to the mobile device (Registration of a new service as it becomes available once the mobile terminal moves to another service deployment area; *Page 7, Paragraphs 128-131, Page 8, Paragraphs 139-142*).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office Action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the

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claims under 35 U.S.C. 103(a), the Examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the Examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

7. **Claims 12 and 17** are rejected under 35 U.S.C. 103(a) as being unpatentable over Kinnunen et al. (U.S. P.G.-Pub. No. 2001/0018349) in view of Chern et al. (U.S. Pat. No. 6,381,465).

Regarding **claims 12 and 17**, and as each applied respectively to claims 10 and 15, Kinnunen et al. disclose the aforementioned mobile device. Kinnunen et al. fail to clearly specify said mobile device comprising: a timer coupled to the processor module for determining a service query update interval (claim 12) and further including: determining that a polling interval time period has ended (claim 17).

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In the same field of endeavor, Chern et al. discloses a location monitoring service wherein a mobile device or handset (*Fig. 2, item 130*) periodically sends its location to a server, subsequently performing all services the user is subscribed to such as traffic monitoring and the server sends a notification with information regarding to the subscribed service (*col. 12, line 44 thru col. 13, line 12*) (claim 12); furthermore ceasing, or stopping the periodic updates for service once the handset has reached a destination address or city (*col. 10, lines 18-52*) (claim 17).

Therefore it would have been obvious to one with ordinary skill in the art at the time the invention was made to have Kinnunen et al. mobile device/element to include periodic updated services as taught by Chern et al. for the purpose of providing services as the user dynamically varies its position.

8. **Claim 13** is rejected under 35 U.S.C. 103(a) as being unpatentable over Kinnunen et al. (U.S. P.G.-Pub. No. 2001/0018349) in view of Stewart et al. (U.S. Pat. No. 6,414,635).

Regarding **claim 13**, and as applied to claim 10, Kinnunen et al. disclose the aforementioned mobile device. Kinnunen et al. fail to clearly specify said mobile device further comprising: a comparator coupled to the processor module for determining whether a selected number of services are available for binding to the mobile device.

In the same field of endeavor, Stewart discloses a geographic-based communication service wherein a mobile unit selects a respective service and an access point transfers said request to a nearby service provider, if the desired service is not available, alternates services may be suggested according to the preferences of the mobile unit (*col. 24, lines 38-53*).

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Therefore it would have been obvious to one with ordinary skill in the art at the time the invention was made to have Kinnunen et al. system for providing location dependent services to a mobile terminal to match available location services according to a user's preferences as taught by Stewart et al. for the purpose of intelligently tailor services to user by finding alternative services that appropriately match an specific user preference.

9. **Claims 22-24** are rejected under 35 U.S.C. 103(a) as being unpatentable over Kinnunen et al. (U.S. P.G.-Pub. No. 2001/0018349) in view of Purdani et al. (U.S. Pat. No. 6,556,824).

Regarding **claims 22-24**, and as each applied to claim 14; Kinnunen et al. disclose the aforementioned method binding an alternative available service to the mobile device. Kinnunen et al. fail to clearly specify further including: determining that a quality of service associated with the at least one selected member of the list of available services included in the service registry has degraded (claim 22) and retrieving the quality of service associated with the at least one selected member of the list of available services (claim 23) from a service registry associated with the at least one selected member of the list of available services (claims 24).

In the same field of endeavor, Purdani et al. disclose for controlling service degradation performance wherein a service is associated with and indication such as a QoS level parameter, storing said indication and selecting a service associated with a preferred quality level or QoS level parameter from a service registry or fixed network of a radio communication system (*col. 3, line 60 thru col. 4, line 20; col. 6, line 65 thru col. 7, line 8; col. 9, lines 20-40*).

Therefore it would have been obvious to one with ordinary skill in the art at the time the

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invention was made to have Kinnunen et al. method and system for providing location dependent services to a mobile terminal to quality level parameters associated with a service as taught by Purdani et al. for the purpose ensuring appropriate communication quality levels during service initiation.

10. **Claim 25** is rejected under 35 U.S.C. 103(a) as being unpatentable over Kinnunen et al. (U.S. P.G.-Pub. No. 2001/0018349) in view of Purdani et al. (U.S. Pat. No. 6,556,824), further in view of Evans et al. (U.S. Pat. No. 6,327,535).

Regarding **claim 25**, and as applied to claim 23, Kinnunen et al. in view of Purdani et al. disclose the aforementioned method for retrieving the quality of service associated with the at least one selected member of the list of available services. Kinnunen et al. in view of Purdani et al. fail to clearly specify retrieving the quality of service from a service provider.

In the same field of endeavor, Evans et al. disclose a context aware method and system wherein service providers have the ability of self-monitoring themselves in order to evaluate a relative quality of information and intelligently conveying information to a location service (*col. 5, lines 29-57*).

Therefore it would have been obvious to one with ordinary skill in the art at the time the invention was made to have Kinnunen et al. in view of Purdani et al. method and system for providing location dependent services according to quality level parameters to retrieve quality information from service providers as taught by Evans et al. for the purpose of accurately monitoring the quality of service of a particular service provider.

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Response to Arguments

11. Applicant's arguments filed January 21, 2005 have been fully considered but they are not persuasive.

Regarding **claims 1, 10, and 14**, Applicant essentially argues, on pages 8 and 9 of the remarks, that Kinnunen does not teach a mobile device capable of sending a query including a service location associated with the current location and at least one selected member of the list of preferred services to the service registry.

The Examiner respectfully disagrees with Applicant's argument and interpretation of the teachings of Kinnunen as it relates to the above-mentioned limitation. Essentially, Kinnunen clearly disclose said limitation in paragraphs 0124 and 0125 where it is clearly stated that the mobile entity (ME) 214 (reads on mobile device) (figure 2) sends a query containing the profiles of the user and of the ME and the location of the ME 214 to the network 212 (reads on the claimed query including a service location associated with the current location and at least one selected member of the list of preferred services). It is worth noting too that the location agent 218 that provides the location information is part of the ME 214 (see figure 2). Therefore, the Examiner maintains the rejection of claims 1, 10, and 14 based on the teachings of Kinnunen.

In response to Applicant's argument that there is no suggestion to combine the references, the Examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5

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USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Applicant's essentially argues, on pages 10-12 of the remarks, that there is no motivation to combine the references since the references do not either, implicitly or explicitly, provide a suggestion to combine. The Examiner respectfully disagrees with Applicant's argument because an express written motivation to combine is not required to appear in the prior art references. See *Ruiz v. A.B. Chance Co.*, 357 F.3d 1270, 69 USPQ2d 1686 (Fed. Cir. 2004), where the court rejected the notion that "an express written motivation to combine must appear in prior art references...." *Id.* at 1276, 69 USPQ2d at 1690.

Finally, in response to Applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). In the present application, Applicant arguments are based on the each reference being considered individually while the rejection is based on both references, and therefore, needs to be considered as whole.

Consequently, in view of the above reasons and having addressed each of Applicant's arguments, the previous rejections are maintained and made FINAL by the Examiner.

Conclusion

12. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

13. Any response to this Office Action should be **faxed to (571) 273-8300 or mailed to:**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Hand-delivered responses should be brought to

Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

14. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Rafael Perez-Gutierrez whose telephone number is (571) 272-7915. The Examiner can normally be reached on Monday-Thursday from 6:30am to 5:00pm.

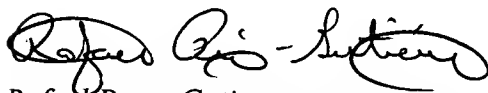
If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's

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supervisor, Marsha D. Banks-Harold can be reached on (571) 272-7905. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free) or 703-305-3028.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist/customer service whose telephone number is (571) 272-2600.



Rafael Perez-Gutierrez

R.P.G./rpg

RAFAEL PEREZ-GUTIERREZ
PRIMARY EXAMINER

September 30, 2005